

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NATIONAL UNION FIRE  
INSURANCE COMPANY OF  
PITTSBURGH, PA,

Plaintiff,

V.

ALAN J. SMITH, et al.,

CASE NO. C14-0169JLR

**ORDER GRANTING  
UNOPPOSED MOTION TO STAY**

## Defendants.

Before the court is Defendant Department of Social and Health Services'

(“DSHS”) unopposed motion to stay. (Mot. (Dkt. # 20).) This is an interpleader action involving life insurance benefits. (*See* Compl. (Dkt. # 1).) The dispute revolves around determining who is entitled to \$150,000.00 in life insurance benefits following the death of Susann Smith—either (1) Alan Smith, Ms. Smith’s former husband; (2) Ms. Smith’s estate; or (3) DSHS as guardian for the two minor children of Mr. and Ms. Smith. (*See id.*) The dispute arises because Mr. Smith is accused of murdering Ms. Smith, and under

1 Washington law, so-called “slayers” are not permitted to benefit under the life insurance  
2 policies of their victims. (See *id.* ¶¶ 1-13); RCW 11.84.100.

3 DSHS moves to stay this case pending resolution of the criminal charges against  
4 Mr. Smith. (See Mot.) Mr. Smith is currently facing state-court charges for the murder  
5 of Ms. Smith. (*Id.* at 2-3, Ex. 1.) DSHS argues that it makes sense to stay this  
6 interpleader action until it is determined whether, in fact, Mr. Smith murdered his wife.  
7 (Mot. at 4-5.) Mr. Smith filed no opposition to DSHS’s motion (*see* Dkt.), and Ms.  
8 Smith’s estate filed a notice of non-opposition, assenting to the stay and requesting only  
9 that the insurance proceeds be placed in an interest-bearing trust account pending  
10 resolution of Mr. Smith’s criminal charges (Resp (Dkt. # 24)).

11 When considering a motion to stay civil proceedings pending the resolution of  
12 criminal proceedings, the court should consider the particular circumstances and  
13 competing interests involved in the case. *See Menster v. Liberty Mut. Fire Ins. Co.*, No.  
14 C13-0775RSL, 2013 WL 5770359, at \*1 (W.D. Wash. Oct. 23, 2013). In particular, the  
15 court should consider (1) the extent to which the plaintiff’s Fifth Amendment rights are  
16 implicated; (2) the interest of the defendant in proceeding expeditiously with this  
17 litigation or any particular aspect of it, and the potential prejudice of a delay; (3) the  
18 burden that any particular aspect of the proceedings may impose on the plaintiff; (4) the  
19 convenience of the court in the management of its cases, and the efficient use of judicial  
20 resources; (5) the interests of persons not parties to the civil litigation; and (6) the interest  
21 of the public in the pending civil and criminal litigation. *Id.* (citing *Fed. Sav. & Loan Ins.*  
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1 *Corp. v. Molinaro*, 889 F.2d 899, 902 (9th Cir. 1989); *Keating v. Office of Thrift*  
2 *Supervision*, 45 F.3d 322, 324 (9th Cir. 1995)).

3 On balance, these considerations support a stay in this case. First, proceeding with  
4 this civil action may require Mr. Smith to choose between properly defending this civil  
5 action and properly defending his criminal charges; responding to discovery in this case  
6 may require either asserting Fifth Amendment rights to his detriment in the civil action,  
7 or providing information in the civil action to his detriment in the criminal action. This  
8 consideration weighs in favor of a stay. Second, the other Defendants in this case do not  
9 oppose a stay. There is no discernible interest in proceeding expeditiously, nor is there  
10 any readily apparent prejudice to Defendants. This weighs in favor of a stay. The third  
11 and fourth factors also support a stay—defending this action could cause an undue  
12 burden on Mr. Smith, and the court would be better served by delaying any decision in  
13 this case until the criminal claims have been adjudicated. The remaining two factors are  
14 neutral. There is no suggestion that any non-parties have a strong interest in this  
15 litigation, nor is the public interest in the pending case suggestive that a stay is or is not  
16 appropriate.

17 Having balanced these factors, the court GRANTS DSHS's motion to stay and  
18 hereby stays these proceedings until the criminal charges against Mr. Smith have been  
19 resolved.

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1 When the criminal case has been sufficiently resolved, DSHS should notify the court of  
2 that fact within 10 days and request that the stay be lifted.

3 Dated this 30th day of June, 2014.

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7 JAMES L. ROBART  
8 United States District Judge  
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